

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

NICHOLAS S. BACON,

Plaintiff,

v.

SERGEANT MARTINEZ, et al.,

Defendants.

CIVIL ACTION NO.: 4:19-cv-155

ORDER

After a careful, *de novo* review of the entire record, the Court concurs with the Magistrate Judge’s Report and Recommendation (“R&R”) to which Plaintiff filed objections, (doc. 52). The Court finds Plaintiff’s objections unavailing but will address the more pertinent ones. First, after the R&R was issued, Plaintiff filed and appealed a grievance at Wheeler Correctional Facility regarding the events at Liberty County Jail giving rise to the complaint. (Doc. 52, pp. 11-17.) A grievance filed at a state prison regarding events at a county jail from years prior does not satisfy the exhaustion requirement. Regardless, grievances and appeals initiated after the filing of the complaint “cannot be used to support [Plaintiff’s] claim that he exhausted his administrative remedies, because satisfaction of the exhaustion requirement was a precondition to the filing of his suit, and, thus, must have occurred before the suit was filed.” McDaniel v. Crosby, 194 F. App’x 610, 613 (11th Cir. 2006).

Second, Plaintiff has provided an order from Major David Edwards of the Liberty County Jail detailing the conditions of Plaintiff’s lockdown beginning on January 11, 2019. (Doc. 52, pp. 19-20.) This order says nothing that would contradict the Magistrate Judge’s finding that lockdown did not prevent Plaintiff from filing a grievance as grievances were still available upon request to any Jail Lieutenant or Sergeant.

Third, Plaintiff alleges Defendants are trying to manipulate the Court by altering seven documents attached to Defendants' motion to dismiss—documents which, the Court notes, were sworn under penalty of perjury to be true and correct. (Doc. 30-3, pp. 2-3.) Plaintiff's allegations are unsubstantiated, and his explanation provides no clarity on which documents were altered and how. (See doc. 52, pp. 23-37.)

Accordingly, the Court **OVERRULES** Plaintiff's objections and **ADOPTS** the Magistrate Judge's R&R as the opinion of the Court. The Court **GRANTS** the motion to dismiss, (doc. 30), **DENIES AS MOOT** Plaintiff's Second Motion to Appoint Counsel, (doc. 36-1), Second Motion to Stay, (doc. no. 36-2), Motion for Reconsideration, (doc. 38), Motion to Merge and Amend, (doc. 42), Motion to Add More Facts, (doc. 44), Motion for Preliminary Injunction, (doc. 53-1), and Motion for Order to Show Cause, (doc. 53-2), **DISMISSES** this case without prejudice, and **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal. Further, as there are no non-frivolous issues to raise on appeal, the Court **DENIES** Plaintiff leave to appeal *in forma pauperis*.

SO ORDERED, this 22nd day of August, 2022.



R. STAN BAKER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA